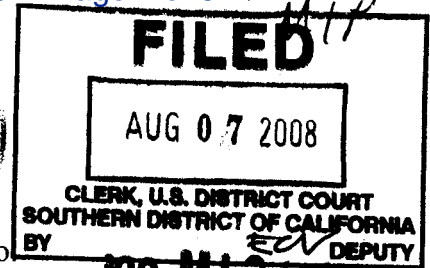


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

1.) Jorge OLAES-Perez,

2.) Jorge APODACA-Vasquez

Defendant(s)

Magistrate Case No.

COMPLAINT FOR VIOLATION OF:

Title 8 U.S.C., Sec. 1324 (a)(1)(A)(ii)

Transportation of Illegal  
Aliens

Title 8 U.S.C., Sec. 1324 (a)(1)(A)(i)

Bringing in Illegal Aliens

The undersigned complainant, being duly sworn, states:

## COUNT ONE

On or about **August 6, 2008**, within the Southern District of California, defendant **Jorge OLAES-Perez** with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that aliens, namely, **Omar Israel DELGADO-Ponce, Roman VELASQUEZ-Morales, Gilberto ROJAS-Ramirez, and Raul GUTIERREZ-Trejo** had come to, entered and remained in the United States in violation of law, did transport and move, said aliens within the United States in furtherance of such violation of law; in violation of Title 8, United States Code, Section 1324(a)(1)(A)(ii).

## COUNT TWO

On or about **August 6, 2008**, within the Southern District of California, defendant **Jorge APODACA-Vasquez**, with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that aliens, namely, **Omar Israel DELGADO-Ponce, Roman VELASQUEZ-Morales, Gilberto ROJAS-Ramirez, and Raul GUTIERREZ-Trejo**, had not received prior official authorization to come to, enter and reside in the United States, did bring to the United States said aliens at a place other than as designated by the Department of Homeland Security; in violation of Title 8, United States Code, Section 1324(a)(1)(A)(i).

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT

Omar A. Ramirez  
Senior Patrol AgentSWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 8<sup>th</sup> DAY OF AUGUST 2008

LOUISA S. PORTER

United States Magistrate Judge

DOA 8/6/08  
ECL

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**CONTINUATION OF COMPLAINT:****Jorge OLAES-Perez****Jorge APODACA-Vasquez****PROBABLE CAUSE STATEMENT**

Furthermore, the complainant states that **Omar Israel DELGADO-Ponce, Roman VELASQUEZ-Morales, Gilberto ROJAS-Ramirez** and **Raul GUTIERREZ-Trejo**, are citizens of a country other than the United States; that said aliens have admitted that they are deportable; that their testimony is material, that it is impracticable to secure their attendance at the trial by subpoena; and they are material witnesses in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

On August 6, 2008, at approximately 3:45 a.m., Senior Patrol Agent O. Ramirez of the Smuggling Interdiction Group (SIG) Intelligence Unit was advised by Senior Patrol Agent M. Rebeiro via radio of approximately twenty suspected illegal aliens were being guided through the mountains near the intersection of State Route (SR) 94 and Highway 188 in Tecate, California. This area is approximately one mile west of the Tecate, California Port of Entry and one mile north of the United States/ Mexico International Boundary.

The guide of the group was describe by Agent Rebeiro who was operating the infrared scope as a tall lanky subject who was first seen through an infra-red scope hiking the group downhill on the north face of the mountain which leads to a cement drainage culvert south of SR94. Once the group got near the road, they split into two groups in an effort to cross without being detected by any oncoming vehicle traffic. Half of the group crossed the road then waited for the second part of the group to cross. The two groups of ten continued hiking on the north side of SR94 and began northbound paralleling the road. The two groups converged into one and hid in the rocks just below call box #393.

At approximately 9:05 am, Agent Rebeiro noticed a red Sport Utility Vehicle (SUV) arrive and abruptly stop at the call box. The doors of the red vehicle quickly opened and several subjects that were hidden in the rocks entered the vehicle. The red SUV sped away eastbound of SR94. Agent Rebeiro notified Agent Ramirez, who then notified the El Cajon Border Patrol Station.

Supervisory Border Patrol Agent M. Diego of the El Cajon Border Patrol Station was patrolling an area east of the reported suspected load and observed a red SUV matching the description of the load vehicle heading eastbound on SR94. The vehicle then turned south onto a dirt access road fifty yards west of Harris Ranch Road. At that point Agent Diego lost visual of the vehicle for approximately thirty seconds, upon regaining visual of the vehicle, he noticed it continue northbound on the same dirt road. The SUV then turned right onto SR94 and continued eastbound. Agent Diego caught up to the vehicle and was able to request a stolen vehicle record check through sector communication of the Baja California, Mexico license plate.

Due to the drivers suspicious route, SBPA Diego affected a vehicle stop on the suspected load vehicle in an area known as Lone Pine in Campo, California. The vehicle stopped without incident. As Agent Diego approached the vehicle, he peered through the back windows of the interior and noticed that it appeared to be dirty and disheveled; this is a common indicator to Border Patrol Agents that the vehicle has been used as a conveyance to transport illegal aliens. Agent Diego approached the driver identified himself as a Border Patrol Agent and questioned him as to his citizenship. The driver, later identified as OLAES-Perez, Jorge claimed to be a citizen of Mexico in the United States legally. OLAES further stated that he did have documents but did not have them with him at the time. When questioned about the ownership of the vehicle, OLAES stated that it belonged to a friend. OLAES was unable to locate any paperwork within the vehicle that would substantiate any of his claims. OLAES explained that he crossed through the San Ysidro, California Port of Entry this morning with his brother. OLAES claimed to have used a passport and a valid B1/B2 visa. He claimed that he was on his way to pick up his wife in Tecate, California when he became lost.

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**CONTINUATION OF COMPLAINT:****Jorge OLAES-Perez****Jorge APODACA-Vasquez**

At approximately 9:30 a.m. while Agent Diego was interviewing the driver, Senior Patrol Agent Fearnough arrived on the scene. Agent Diego relayed the vehicles route prior to performing the vehicle stop to Agent Fearnough. Agent Fearnough retraced the route to a dirt road with several abandoned freight trailers where he encountered nine subjects inside a white freight trailers. Agent Fearnough identified himself as a Border Patrol Agent and conducted an immigration field interview on all nine subjects. All nine of the subjects admitted to being citizens and nationals of Mexico not in possession of any immigration documents that would allow them to enter or remain in the United States legally. All nine subjects were arrested and transported to the Chula Vista Border Patrol Station for further processing. After Agent Fearnough relayed his findings to Agent Diego and considering the information received via the agency radio regarding the vehicle seen loading, OLAES was placed under arrest for suspicion of alien smuggling and transported to the Chula Vista Border Patrol station for processing and further investigation.

While the agents were conducting their investigation pertaining to the group that had loaded into the red SUV, Agent Rebeiro relayed to Agent O. Ramirez that the Brown Field station All Terrain Vehicle (ATV) Unit was responding to the area in which the rest of the group had been left behind. Agents began scouring the area and eventually encountered several subjects attempting to conceal themselves behind the rocky outcropping just below the call box labeled #393 on SR94. Agents approached the eleven subjects, identified themselves as Border Patrol Agents and conducted a field immigration interview. All of the eleven subjects including one later identified as **Jorge APODACA-Vasquez**, admitted to being citizens and nationals of Mexico not in the possession of any immigration documents which would allow them to enter or remain in the United States legally. All of the subjects were arrested and transported to the Chula Vista Border Patrol station for processing and further investigation.

**DEFENDANT STATEMENT: Jorge OLAES-Perez**

The defendant OLAES was advised of his Miranda rights in the Spanish language. OLAES stated he understood his rights and wished to answer the agents questions.

OLAES possesses a non-immigrant visitor visa, which he used to legally enter the United States on August 6, 2008. OLAES advised he entered in a vehicle with his brother, Jonatan OLAES, through the San Ysidro Port of Entry at approximately 6:00 a.m.

When asked how he got involved in smuggling aliens, OLAES advised his wife is ill and he needs money to continue her treatment. His wife's cousin referred him to a smuggler named 'Adrian', Last Name Unknown (LNU). Approximately one month ago he met Adrian to learn about the smuggling business. He has met Adrian twice before to learn the details of the operation. The meetings take place on the shopping center located at a shopping center parking lot off 'H' Street next to Interstate 805. Adrian arrives in a S-10 pick up truck, gray in color. The truck sometimes has gardening tools as if Adrian works in construction. The truck bears Baja California, Mexican license plates. Adrian explained to OLAES that the job was very easy and offered to pay OLAES \$35.00 U.S dollars per alien. Adrian explained to OLAES that the aliens are picked up from one of two possible locations. One location is located near a big rock in east San Diego County.

Adrian was described as a Hispanic male, medium height, approximately 32 years old with sunglasses. OLAES advised he hesitated to accept the job, but after Adrian called him for 3 to 4 days offering the job, he finally accepted his offer.

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**CONTINUATION OF COMPLAINT:****Jorge OLAES-Perez****Jorge APODACA-Vasquez**

With regards to this alien smuggling incident, OLAES stated that once in the United States he agreed to meet Adrian at a Carl's Jr. Restaurant parking lot located near the intersection of 'H' Street and Broadway off Interstate 5. Adrian arrived in the S-10 pick up truck alone. Adrian explained to OLAES that there was a group of illegal aliens ready to be picked up. Adrian told OLAES there were three foot-guides and that if one of the foot-guides loads into his vehicle and requests to be dropped off at the border to tell him 'NO.' OLAES was to follow Adrian in a separate vehicle to the pick up location. OLAES was to transport only half of the group. Adrian asked OLAES for his driver's license. Adrian left the restaurant parking lot for approximately fifteen minutes with his identification. OLAES advised that Adrian photocopied his driver's license so as to have a hard copy of his identification. Adrian returned to the parking lot and gave OLAES a Chevrolet Trail Blazer.

OLAES, driving the Trail Blazer, followed Adrian eastbound on 'L' Street, passed the Eastlake community and headed into Tecate, California. OLAES stated they traveled for approximately 20 minutes until they reached an area where the road meets the highway that leads to Tecate, Mexico. Adrian continued on the main road, then turned right on a dirt road. OLAES advised he followed Adrian on this dirt road for approximately ten minutes. The dirt road led OLAES back to the main road. When Adrian reached an unknown location, Adrian contacted OLAES on the telephone and instructed him to stop and blow the horn of his vehicle. OLAES blew the horn and approximately seven undocumented aliens came out of the brush and entered his vehicle.

OLAES transported the group of undocumented aliens to a tractor trailer located approximately one half mile from where he picked up the group. OLAES entered what appeared to him as a 'private dirt road' where he encountered two parked tractor trailers. One of the tractor trailers was occupied by an unknown driver. The driver got out, opened the door of the trailer, allowing the undocumented aliens to load. As soon as the undocumented aliens unloaded, OLAES departed the area, but was immediately spotted by an agent driving a suburban style vehicle. OLAES was then arrested by Border Patrol.

OLAES advised if he had not been spotted, he was to drop off the Trail Blazer at an abandoned house, where a different load driver was to assume custody of the vehicle and make a second trip to the area to pick up the remaining undocumented aliens.

When presented with an array of Polaroid photographs taken of all subjects arrested in this event, OLAES stated that he did not recognize anyone.

**DEFENDANT'S STATEMENT: Jorge APODACA-Vasquez**

The defendant was advised of his Miranda rights and he stated he understood his rights, and was willing to answer questions without the presence of an attorney. The defendant APODACA said that he is an undocumented Mexican national born in Chihuahua, Mexico on 05/07/88. He stated that he currently lives in Colonia Los Pinos in Tijuana, Baja California, Mexico.

APODACA stated that he has no documents allowing him to enter or be in the United States legally. APODACA admitted that he has been working as a foot guide since April of 2008. He stated that he has been apprehended 8 times by the Border Patrol. He stated that of all of the times he has guided groups of undocumented aliens, the first time, just prior to his first arrest, was the only time that he had crossed a group successfully, and that since then, he had been caught every time.

APODACA stated that he began working as a foot guide out of economic necessity.



**CONTINUATION OF COMPLAINT:****Jorge OLAES-Perez****Jorge APODACA-Vasquez**

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When asked how he had gotten involved in alien smuggling, APODACA stated that a friend of his, named 'El Tronco', introduced him to an alien smuggling boss called 'Cirilo'. APODACA stated that 'Cirilo' offered him work as a foot guide and told him that he would pay him \$100.00 (USD) per alien he successfully smuggled into the United States. APODACA stated that he agreed. 'Cirilo' said that it would be easy and that he was simply to cross them near Tecate and take them to the highway. APODACA stated that 'Cirilo' has a number of foot guides who work for him, and that he believes there are about 7 or 8 of them, in total.

APODACA stated that on this first attempt, they successfully crossed a large group of aliens and that there were four other foot guides showing him the way. He characterized his participation in that event as a 'helper' and stated that they only gave him about \$200.00 (USD) for his efforts.

APODACA stated that they always cross using pretty much the same route. He stated that they cross just west of the Tecate Port-of-Entry, near a hill which has what looks like a letter 'Z' on it. He stated that a spotter goes up on a nearby hill and watches for the Border Patrol, and then communicates via Nextel Direct Connect phones with the foot guides, telling them when the coast is clear. APODACA stated that 'Cirilo' provides the phones to the other guides, but that he never gets one. APODACA stated that the groups usually number about 16 smuggled aliens, and 3 other foot guides, besides himself. He stated that they go to 'Call Box #393' on the north side of the highway on the 'Campo' side of the intersection of S.R. 94 and the 'Tecate Highway'. He stated that the other guides always return to Mexico and leave him, and so he is always the one who gets caught.

APODACA said that the other guides are paid \$100.00 (USD)/ per smuggled alien, while he only gets a fixed sum of around \$200.00 (USD). APODACA stated that he doesn't really know the way very well, and that he would get lost if he tried it alone. When asked about the times that he had been arrested, APODACA said that he was caught three times at the call box, once in Potrero, twice in 'El Hongo', once going to San Diego, and once just prior to arriving at the call box. APODACA said that his very first arrest, on 04/22/08, was the only time he had ever been arrested with any of the other guides, and that there had been four other guides in the group on that occasion.

When asked to describe 'Cirilo', APODACA said that he has been deported from the United States before, and that he has told his employees that he used to be a foot guide himself. APODACA stated that 'Cirilo' had been imprisoned in the U.S. for about five years for alien smuggling. He described 'Cirilo' as being short, kind of fattish, with a thick mustache, and that he always wears a hat. He stated that 'Cirilo' has two cars, a 1998 or 1999 Honda Civic with California plates and a White Ford Expedition with California plates.

As relates to today's event, APODACA stated that 'Cirilo' had come to his house and offered him work, initially stating that there were 10 aliens to be smuggled, but later it turned into a total of 16 aliens. APODACA said that there were two other foot guides accompanying him in today's smuggling attempt.

APODACA stated that they crossed today around 3:00 a.m., and after walking about two hours, they arrived at the call box. APODACA stated that he was not in communication with the load vehicle, that he did not have a phone or radio, and that he was simply told that they vehicle would pull up to the call box and honk. At that point he was to send half of the group to load into the vehicle, while he waited with the other half for the next load. When asked if a different vehicle would come the second time, APODACA stated that he believed it would be the same vehicle making a second trip.

APODACA said that when the load vehicle arrived and honked, he selected half of the group and sent them up to the road to get into the vehicle. He stated that he picked the aliens and told them to pile into the car.

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**CONTINUATION OF COMPLAINT:****Jorge OLAES-Perez****Jorge APODACA-Vasquez**

He stated that he believed that he had selected eleven of the aliens to get in the first load. APODACA stated that he remained hidden below the level of the road, with the remainder and so he never saw the load vehicle and could not describe it.

APODACA stated that after the first half of the group was picked up, he believed that they had, in fact, successfully gotten away. After a short while, uniformed Border Patrol agents arrived and arrested him and the other aliens.

When asked, APODACA stated that he was aware that the people he was smuggling did not have documents allowing them to enter the United States illegally. When asked how he knew, he stated because they were crossing through the hills. APODACA further stated that he was going to be paid a fixed sum of around \$200.00 (USD) for smuggling the group. APODACA stated that he did not know where the driver was taking the aliens.

**MATERIAL WITNESSES STATEMENTS:**

Material Witnesses **Omar Israel DELGADO-Ponce, Roman VELASQUEZ-Morales, Gilberto ROJAS-Ramirez, Raul GUTIERREZ-Trejo**, and stated that they are citizens and nationals of Mexico illegally present in the United States. They stated that they did not have any immigration documents allowing them to be in the United States legally. They stated that arrangements had been made in Mexico to be smuggled into the United States. All the material witnesses stated that they were to pay between \$1800.00 to \$2,000.00 U.S. dollars to be smuggled to various parts of California. Material witness **ROJAS** was shown an array of photographs and was able to identify defendant **Jorge OLAES-Perez** the driver of the vehicle and defendant **Jorge APODACA-Vasquez** as the foot-guide. Material witnesses **Raul GUTIERREZ-Trejo and Roman VELASQUEZ-Morales** were able to identify **Jorge APODACA-Vasquez** as the foot-guide.